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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,225	02/11/2002	Thomas J. Coleman	278-101P-WLK	9263

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/071225

EXAMINER

WEINSTEIN

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**Commissioner for Patents**

Newly submitted amended claims 1-8, 10, 11, 15-30 and 32, filed 12/30/04, are directed to an invention that is independent and distinct from the invention originally claimed and finally rejected. The finally rejected claims were directed to an embodiment wherein the candy sucker was connected to and upwardly extending from said closure. That is, the finally rejected claims were directed to the embodiment of figures 1-6. In the amendment filed 12/30/04, all of the claims were amended to now recite that the candy sucker is stored within at least one compartment and is a separate unit from the container and closure. This is the embodiment shown in figures 7-11. These embodiments are separate inventions/species.

Since applicants have received actions on the merits for the originally presented and finally rejected invention, the invention of fig 1-6 has been constructively elected. Since the amendment cancels all claims directed to the constructively elected invention, and includes only claims to a non-elected invention, the amendment filed 12/30/04 is non-responsive. Note too, that one cannot change inventions in a RCE. One must continue prosecution of the same invention.

Since the above -mentioned amendment appears to be a bona fide attempt to reply, applicant is given a time period of One (1) month from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment, Extensions Of This Time Period Under 37 CFR 1.136(6) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L Weinstein whose telephone number is (571) 272-1410. The examiner can normally be reached on Monday-Friday 6:30am to 3:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Weinstein/af  
February 22, 2005

Steven Weinstein  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761